

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
NO. 1:20-CV-00613-CCE-LPA

NATIONAL ASSOCIATION FOR THE )  
ADVANCEMENT OF COLORED PEOPLE, )  
Alamance County Branch; TAMARA O. )  
KERSEY; COLLEEN TENAE TURNER; )  
TERENCE COLIN DODD; DESTINY )  
CLARKE; NERISSA RIVERA; ADAM )  
ROSE; ANNIE SIMPSON; GREGORY B. )  
DRUMWRIGHT, )

Plaintiffs, )

v. )

JERRY PETERMAN, in his official capacity )  
as Mayor of the City of Graham, North )  
Carolina; FRANKIE MANESS, in his official )  
capacity as Graham City Manager; CHIP )  
TURNER, in his official capacity as Mayor )  
Pro-Tem of the City of Graham; MELODY )  
WIGGINS, JENNIFER TALLEY, and RICKY )  
HALL, in their official capacities as Graham )  
City Council Members; JEFFREY PRICHARD )  
in his official capacity as Chief of the Graham )  
Police Department; TERRY S. JOHNSON, in )  
his official capacity as Sheriff of Alamance )  
County; EDDIE BOSWELL, STEVE )  
CARTER, BILL LASHLEY, AMY SCOTT )  
GALEY and TIM SUTTON, in their official )  
capacities as Alamance County )  
Commissioners; and BRYAN HAGOOD, in )  
his official capacity as Alamance County )  
Manager, )

Defendants. )

**ALAMANCE DEFENDANTS' SUR-  
REPLY PURSUANT TO L.R. 7.6**

NOW COME Terry S. Johnson, in his official capacity as Sheriff of Alamance County; Eddie Boswell, Steve Carter, Bill Lashley, Amy Scott Galey and Tim Sutton, in their official capacities as Alamance County Commissioners; and Bryan Hagood, in his official capacity as Alamance County Manager (hereinafter collectively referred to as “Alamance Defendants”), pursuant to M.D.N.C. L.R. 7.6 and make the following evidentiary objection to new factual allegations contained in Plaintiffs’ Reply to Defendants’ Response to Plaintiffs’ Motion for Temporary Restraining Order and Preliminary Injunction.

1. On August 3, 2020, Plaintiffs filed a Reply to the Response of the Alamance County Defendants to Plaintiffs’ Motion for a Temporary Restraining Order and Preliminary Injunction (D.E. 55). This Reply raised new factual allegations in violation of L.R. 7.3. L.R. 7.6 allows a non-moving party to file a surreply to address the new factual allegations.
2. In footnote 1 of the Reply (D.E. 55 p. 1), Plaintiffs insert new allegations relating to temporary time, place, and manner restrictions instituted by these Defendants on July 31, 2020, in response to credible information of a large-scale protest, and refers to a post on the Facebook page of Alamance County Sheriff’s Office.
3. In doing so, Plaintiffs have inserted new facts into their Reply in violation of L.R. 7.3 which mandates that a reply is limited to a discussion of matters newly raised in the Response.

4. In addition to violating L.R. 7.3 by inserting new factual allegations, Alamance Defendants respectfully submit that the insertion of this newly raised factual information is misleading. A portion of the “credible information” came from Plaintiffs themselves. The sworn Declarations of Destiny Clark (D.E. 47-4), Nerissa Rivera, (D.E. 47-5), Adam Rose (D.E. 47-6), and Carleen Tenae Turner (D.E. 47-7) all contain the same sentence: “I plan to join with others at the Historic courthouse in Graham North Carolina this Saturday, August 2, 2020 to the confederate monument (sic) at the courthouse square to protest against it.” (See Clark Dec. p. 3; Rivera Dec. p.4, Rose Dec. p. 3; Turner Dec. p. 3). Despite the characterizations of Plaintiffs, and as the entire Facebook post makes clear, the Alamance County Sheriff’s Office announcement removed restrictions rather than increasing them. In addition, Counsel for Plaintiffs objected to the Facebook post and the current language reflects the Alamance Defendants’ efforts to accommodate Plaintiffs’ requests.
5. The Alamance Defendants respectfully submit that the insertion of this newly raised factual information is improper, and as a result, Plaintiffs’ Reply should be stricken.

WHEREFORE, Pursuant to L.R. 7.6, the Alamance Defendants respectfully object to the newly-raised evidence in the Reply filed by the Plaintiffs.

RESPECTFULLY SUBMITTED.

This the 4<sup>th</sup> day of August, 2020

/s/ William L. Hill

William L. Hill (NCSB #21095)

*Attorney for Alamance Defendants*

**FRAZIER, HILL & FURY, R.L.L.P.**

2307 W. Cone Boulevard, Suite 260

Post Office Drawer 1559

Greensboro, North Carolina 27401

Telephone: (336) 378-9411

Facsimile: (336) 274-7358

[whill@frazierlawnc.com](mailto:whill@frazierlawnc.com)

/s/ Clyde B. Albright

Clyde B. Albright (NCSB #10778)

*Attorney Alamance Defendants*

**ALAMANCE COUNTY ATTORNEY**

124 West Elm Street

Graham, NC 27253

(336) 570-4046 (voice)

(336) 570-6788 (facsimile)

[Clyde.Albright@alamance-nc.com](mailto:Clyde.Albright@alamance-nc.com)

## **CERTIFICATE OF SERVICE**

The undersigned does hereby certify that a copy of the foregoing **ALAMANCE DEFENDANTS' SUR-REPLY PURSUANT TO L.R. 7.6** was duly served upon all parties hereto in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure through the CM/ECF system in effect for the United States District Court for the Middle District of North Carolina as follows:

### **Counsel for Plaintiffs**

Kriste L. Graunke: [kgraunke@acluofnc.org](mailto:kgraunke@acluofnc.org)  
Daniel K. Siegel: [dsiegel@acluofnc.org](mailto:dsiegel@acluofnc.org)  
Elizabeth Haddix: [ehaddix@lawyerscommittee.org](mailto:ehaddix@lawyerscommittee.org)  
Mark Dorosin: [mdorosin@lawyerscommittee.org](mailto:mdorosin@lawyerscommittee.org)  
Vera Eidelman: [veidelman@aclu.org](mailto:veidelman@aclu.org)  
Emerson Sykes: [esykes@aclu.org](mailto:esykes@aclu.org)  
C. Scott Holmes: [scott.holmes@lockamylaw.com](mailto:scott.holmes@lockamylaw.com)

### **Counsel for Defendants**

Clyde B. Albright: [clyde.albright@alamance-nc.com](mailto:clyde.albright@alamance-nc.com)  
Anthony J. Biller: [ajbiller@michaelbest.com](mailto:ajbiller@michaelbest.com)

This the 4<sup>th</sup> day of August, 2020.

/s/ William L. Hill  
William L. Hill (NCSB #21095)  
*Attorney for Alamance Defendants*